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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of the Commission's)
Rules to Provide Channel Exclusivity)
to Qualified Private Paging Systems)
at 929-930 MHz)

PR Docket No. 93-35
RM-7986

To: The Commission

JOINT COMMENTS OF
MESSAGE CENTER BEEPERS, INC. AND BEEPAGE, INC.

Message Center Beepers, Inc. (MCB) and Beepage, Inc. (Beepage) hereby submit their joint comments in response to the above-captioned Notice of Proposed Rule Making:

I. Introduction

1. MCB is the licensee of a wide-area Part 90 Private Carrier Paging system operating on 152.48 MHz in the Northeast. That system provides service through 200 transmitters to more than 92,000 users. Beepage, an affiliated company, holds PCP licenses in the 900 MHz band and is currently implementing a regional and nationwide system. Both of these companies have made a tremendous investment in providing commercial PCP services, and they have a vital stake in the outcome of this proceeding.^{1/}

II. Sharing at 929-930 MHz

2. MCB and Beepage generally support the exclusivity proposals made by the Commission regarding the 900 MHz band. They have reviewed the Comments which are being filed herein by

^{1/} These parties have together invested well over \$7 million in hardware and have undertaken very substantial operating costs in order to provide PCP services.

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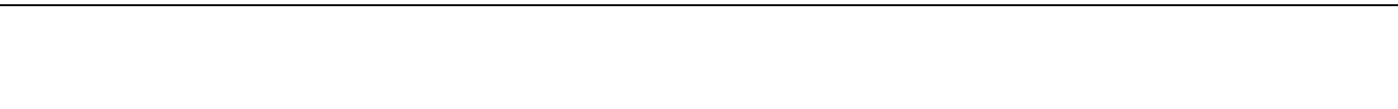

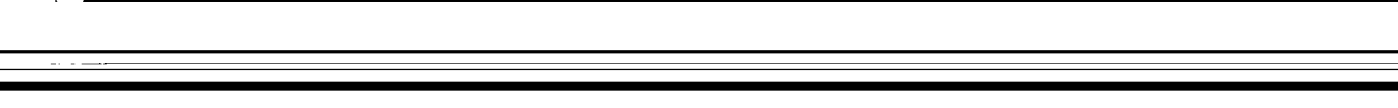
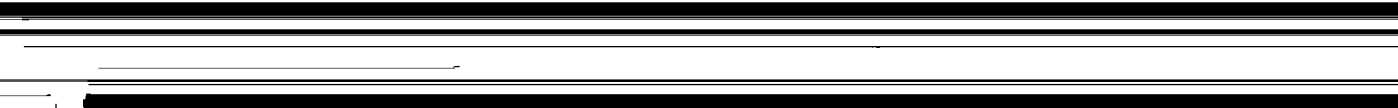

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the Association for Private Carrier Paging (APCP) Section of the National Association of Business and Educational Radio, Inc. (NABER). They generally support APCP's views on the issues, including its positions on the threshold numbers of contiguous transmitters needed to qualify for local exclusivity, procedures for higher power, regional exclusivity, avoidance of the use of multiple coordinators, deterrence of speculation, shared exclusivity of existing licensees, and the imposition of license conditions to show protection requirements. MCB and Beepage also have several observations which are beyond the scope of APCP's Comments.

3. The Commission's proposal to disregard co-located transmitters in determining eligibility for exclusivity (para. 34) is too restrictive. There is no reason why co-located transmitters which provide service on two different frequencies should not count towards a separate exclusivity determination for each system. Many PCP operators are authorized more than one frequency in an area, and such dual authorizations are likely to become more common as the industry matures. In order to make efficient use of the allocated spectrum, PCP operators (and licensees in other services as well) sometimes overlay systems on different frequencies. Use of two frequencies in the same or overlapping areas can facilitate the provision of services to user bases with discrete service needs. Such system design can improve coverage and load management, especially for systems processing a large volume of pages. It would not make sense to

require a licensee with two PCP systems to put a transmitter on the second frequency at a different location from the transmitter on the first frequency in the same area in order to get the benefit of exclusivity on the second frequency. The separate consideration of two co-located transmitters which provide service on different frequencies for exclusivity calculations would be reasonable and would contribute toward the goal of efficient spectrum use and resource management.

4. The Commission proposes to limit applicants for exclusive channels to requesting one frequency at a time at any location. Also, a system on an authorized frequency would have to be constructed and in operation before a second frequency could be assigned in a given area (para. 34). MCB and Beepage believe that some limitations on applications for exclusive frequencies would be wise. Companies could reasonably develop two nationwide frequencies or a combination of a nationwide and one or more regional frequencies. However, MCB and Beepage



a particular new area at the same time. In those circumstances an exclusivity preference should be given to the operator with the most transmitters or else the most users. Where those objective factors are not controlling, the Commission should assess the efficiency and sharing record of the two operators and favor the one which may be expected to more efficiently use the frequency.

III. Sharing Below 900 MHz

6. The Commission has also asked for informal comments "on how to promote optimally efficient use of the lower band frequencies, whether by earned exclusivity or some other means." (para. 39). MCB and Beepage have some suggestions with respect to regulation of operations in the lower bands. They also strongly believe that the Commission's tentative conclusions regarding the benefits of exclusivity at 900 MHz apply equally to the lower frequency bands. Such exclusivity would acknowledge the investment in and development of these channels by licensees which have built extensive systems with efficient operations.

7. In this relatively new field, MCB has invested and worked since 1986 to develop a successful system. MCB has strived to integrate local licensees into its own system, to move co-channel stations to other available frequencies, and, when necessary, to implement the most appropriate sharing mechanisms. It may indeed prove more difficult to manage the transition to exclusivity in the lower, more established bands. However, the challenge should be met in order to pursue the goals of higher

quality of service, efficient use of spectrum, and assuring the financial viability of the pioneering companies which have built this service, including MCB, and of newcomers who are willing to make similar investments.

8. The experience of MCB in establishing and operating its PCP system is most instructive in showing the need to modernize regulations affecting operations and sharing and to provide for exclusivity in the VHF band. The MCB system is divided into several regions to promote efficient use of the channel. A user may choose service over limited areas or may choose regional coverage. During the busiest hours the system efficiently processes enough pages to load the channel substantially. MCB works with all licensed and operating co-channel carriers to avoid interference. It operates as efficiently as possible with a simulcast system, using the POCSAG signalling scheme, and the highest paging speeds reasonably available to achieve maximum spectrum efficiency.

9. MCB has concluded that the type of monitoring and lock-out equipment required by the rules for licensees sharing a channel is quite inefficient. Not all lower frequency PCP licensees have been willing to invest in more efficient interconnection equipment, and some positively resist any effort to improve the technology with which they operate. Some 152.48 MHz licensees seize the channel without regard to its use by others (or, even worse, in knowing disregard of such use). In the development of its regional system, MCB has encountered paging licensees

on 152.48 MHz which have non-simulcast systems, which devote substantial channel time to less efficient voice traffic, or which do not even have users, but which yet have the potential to block MCB's efficient use of the channel by artificially requiring sharing of spectrum. MCB unfortunately does face such operations in some areas. The Commission's all but totally open sharing policies subject MCB and many other operators to a constant threat of disruption. MCB believes that licensees should be subject to firm remedial action when they fail to meet essential Commission rules which facilitate sharing. At a minimum, the Commission should propose to update the monitoring and sharing rules to require the use of newer and more efficient technology and to preclude new grants where existing users qualify for exclusivity.

10. Shared exclusivity might be appropriate at the lower frequencies, as well as at 900 MHz, where more than one licensee is eligible for exclusivity when the concept is first implemented. However, in a situation where there is one user eligible for exclusivity and other ineligible users on a channel, provision should be made for existing ineligible users to migrate to another non-exclusive frequency. Exclusivity would be appropriate even if users with one, two, or three locations might have to be moved off of the channel.^{2/} The Commission might also

^{2/} Licensing of single licensees over broad areas would also simplify any necessary coordination between established lower frequency private carrier paging systems and the advanced two-way systems proposed in the Commission's private radio "refarming" proceeding, PR Docket No. 92-235.

include reasonable out-of-pocket reimbursement provisions in its rules so that a large paging operator on the lower frequencies could require the modification of a license which is causing inefficient operation of the larger system, so long as the smaller, less efficient licensee could continue to provide substantially equivalent service on another available frequency without cost to itself or its users. Such arrangements, where practicable, would be preferable to grandfathering inefficient operations.

11. In general, and particularly in the more crowded bands below 900 MHz, the Commission should take steps to assure that licensees which do not identify their channels and provide bona fide service to users do not stake out systems merely in order to claim exclusive use. One way to avoid that problem would be to provide that a licensee applying for exclusivity would be required to file a certification that it has users with active units receiving service and is identifying its station. Such a certification could also provide information as to how the licensee is coordinating service with any other users.

IV. Conclusion

12. For the reasons set forth above, MCB and Beepage urge the Commission to amend its rules to provide for exclusivity in appropriate circumstances for private carrier paging systems operating in the 900 MHz band. The rule amendments should be tailored to meet the concerns set forth in these Comments and in the separate comments of APCP. In addition, the Commission

should proceed promptly to the next logical step -- an immediate proceeding looking towards exclusivity for PCP licensees at lower frequencies.

Respectfully submitted,

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